

WILLAMINA LUMBER COMPANY*A HAMPTON**AFFILLATE*

September 27, 2004

Bill Moore
Industrial Stormwater General Permit
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Re: Proposed Revisions to the Industrial Stormwater General Permit

Dear Mr. Moore:

Hampton Lumber Mills would like to thank the Department of Ecology for the extensive efforts involved in modifying the language in the Industrial Stormwater General Permit. Hampton would also like to thank the Department for the time it will take to address our comments as well as other comments on the revised permit.

Hampton believes that some of the proposed permit revisions add many detailed requirements that as proposed, will be extremely challenging to implement by both sources as well as the department. Additionally, the substance of the permit appears to move toward more restrictive water quality limits while moving away from the interpretive standards. As a result the language in the permit is more restrictive than originally intended by the EPA.

1. S3.C. - Conditionally Approved Non-Stormwater Discharges -- The IGSWP should mimic EPA's provisions for allowable non-stormwater discharges as presented in the NPDES Multi-Sector General Permits for Storm Water Discharges Associated With Industrial Activities (65 FR 64801-64862, October 30, 2000).

The language, as stated, makes a clear attempt to address insignificant sources of non-stormwater discharges but then requires a source to take additional steps to prove why the insignificant source is not going to cause a violation of the water quality standards. These additional steps will not result in improvements to water quality but will result in confusion for sources. The language also leaves a lot of room for contradictory interpretations by inspectors and does not allow for flexibility. Finally the language requires a source to implement BMP's for a categorically insignificant source that has been determined to be allowable.

While the Department has attempted to include many non-stormwater discharges they have not included source such as: landscape watering, pavement wash waters where no detergents, routine external building wash down, irrigation water used to keep building roofs cool, and street sweeper water used to control dusts.

Hampton would also request that the Department eliminate the requirement to de-chlorinate potable water discharged from water line flushing.

1.2

2. S4.C. – Level One Response

The language in Level One Response is restrictive in that it requires a source to conduct another inspection of their property when the SWPPP and the Sampling and Monitoring Plan already address the evaluation of the property for potential sources of pollutants and the evaluation of sampling results. Additionally the draft permit now requires a source to submit a report to the Department regarding the results of the inspection. This reporting requirement is unnecessary since the source is required to document the results of their inspections within the SWPPP and to make improvements to BMP's as determined based on the results of the inspection. Hampton does not understand how sending this report to the Department will result in improvements to the program or water quality. Additionally Hampton understands that the department has a multitude of sources and that if half submitted reports for any given quarter, that the Department would be overloaded with filing these reports.

3. Action Levels

Hampton believes that there will be confusion among facility personnel regarding compliance with Benchmarks and now Action levels. The language in the permit has now set another layer of confusion in the permit. Additionally the Department has not clearly addressed when a source must begin testing for pollutants in the Action Level Group. If a source exceeds the Bench Marks when is it required to start testing for action levels? For example, the Action Level includes Phosphorous while the Bench Marks do not.

4. Two and Level Three Responses

The proposed requirement for a permittee to "investigate all available options of source control" establishes open-ended and unrealistic requirement. The triggering of a Level Two or Level Three Response requirement to "investigate all available options" sets an enforceable expectation of a world-wide survey and technical evaluation of literally any relevant process, technique, technology, etc. As a practical matter, this investigation would need to be accomplished by a knowledgeable professional engineer. The time and cost to accomplish this review is beyond the reasonable expectations for any permit. Additionally, for a source to adequately evaluate a specific BMP requires a source to implement a specific BMP and then test again the following quarter. If the source performed a literature search and discovered 15 different engineering options, how can they implement these options economically before triggering a Level Three Response?

Finally, Hampton believes the language proposed by the Department to allow a Waiver Request leaves a source without a permit shield and open to outside party lawsuits.

- 5.1
- 5.2
5. Monitoring Requirements for Facilities Discharging to 303(d) Listed Waters
Hampton believes that this requirement unreasonable and that quarterly monitoring frequency should be retained. Hampton understands that the Department's Fact Sheet Addendum incorrectly portrays that settlement discussions between the appealing parties and Ecology led to a monthly monitoring frequency outcome. The negotiations did not yield a consensus for a more intense monitoring frequency on authorized dischargers to 303(d) listed water segments. In addition, TMDL's completed by Ecology consistently recognize that pollutant loadings from IGSW permittees have an insignificant impact on the water quality impairment. The Department appears to have set Load Allocation with an arbitrary Margin-of-Safety. Additionally monitoring cost increases will be excessive for most permittees.

- 6.1
6. Visual Observations
Hampton understands that the Visual Monitoring requirement in the permit is intended to require a source to visually evaluate BMP's and the facility and to determine if additional steps are required. The proposed language suggest that this report must also show a compliance plan and to determine if there are any issues of non-compliance with the permit. This is burdensome and would require each of the personnel in a facility's Pollution Prevention Plan to be able to interpret each component of the permit as well as be able to interpret state regulations. The members of the PPP should understand the basic components of the SWPPP and Permit and be given the authority to implement BMP's as necessary.

6.2

Finally, Hampton does not understand how the Department will address a monitoring report that suggests that BMP's need to be implemented when the results of the stormwater testing are below the benchmarks.

7. Public Access to Stormwater Pollution Prevention Plans
Hampton believes that it is unreasonable to require the permittee to directly supply a SWPPP to a member of the public upon request. The permit outlines how a source must provide copies of a "living document" that may contain sensitive business information. This requirement sets the stage for third party claims against a permittee for failure to provide "Sufficient" information that this third party believes is necessary to determine compliance with the permit. Additionally, under this draft permit, or the previous permit, the SWPPP will be modified and new information incorporated at least quarterly and maybe monthly. It will be very unwieldy if the agency's expectation is to receive and maintain on file the SWPPP for each permittee, let alone attempt to keep a file for all updates. Hampton believes that the language in the permit should not be changed.

8. S7. Compliance with Standards

8.1 Hampton does not believe that the additions to the permit provide substantive improvements to the permit and should be deleted. The language suggests that the BMP manuals are now standards that must be fully implemented. Additionally, any BMP's selected that are not "Approved" by the Department, will now require an exhaustive arbitrary analysis. This proposed process appears to move compliance away from results and more towards interpretation of how a BMP is applied. This process makes compliance with a permit up to the interpretation of a Department inspector. Hampton does not challenge the concept of a BMP manual in that the current versions have many sound examples of BMP's. However, it is not clear if all of the BMP's in the state manuals have come under the same level of scrutiny that the draft permit is requiring a source to perform on a proposed BMP.

8.2 Stormwater monitoring yielding parameter values below Benchmark Values are considered unlikely to cause a water quality violation; i.e., to not be a "significant contributor of pollutants." Yet the structure of this proposed permit implicitly assumes that pollutant values above Benchmark Values are causing water quality violations, and effectively triggers the evaluation and provision of additional BMPs. This draft permit presumes that discharges above Benchmark really do cause water quality standards violations in the receiving water. Given that even a few monitored values above the new Action Levels would force a permittee to make capital investments for treatment BMPs, provision needs to be created in this permit for a direct evaluation of water quality standards attainment.

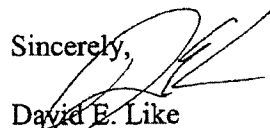
8.3 Hampton believes that the "Demonstrably equivalent" definition and process is beyond the capability of all but the most sophisticated permittee. The process should be simplified to become more accessible. New and creative BMPs approaches can be expected to emerge over time. Unless Ecology routinely updates its Stormwater Management Manuals to incorporate these innovations there is the possibility that the "demonstrably equivalent" process could prevent the sharing and utilization of these (perhaps) more effective and less costly BMPs. As presently proposed, the demonstrably equivalent process implies a full research effort to define expected performance.

9. SWPPP (S9)

Hampton requests that the proposed modifications to Section S9 be deleted. For example, Section 3 requires that the SWPPP document performance of BMP's. This is unreasonable and could result in untrained personnel making engineering assumptions. It would appear impractical for a source to be able to assess compliance with standards and AKART until it collects stormwater data. Finally, the language in the permit suggests that compliance with the stormwater manuals will lead a source to full compliance with all water quality regulations. This is not substantiated within the manuals.

If you have any questions please feel free to contact me at (503) 876-1386.

Sincerely,



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